IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY DIORIO,	§
	§
Petitioner Below-	§ No. 300, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 12M-04-138
Respondent Below-	§
Appellee.	§

Submitted: August 3, 2012 Decided: September 6, 2012

Before HOLLAND, BERGER, and JACOBS, Justices.

ORDER

This 6th day of September 2012, upon consideration of the parties' briefs and the record below, it appears to the Court that:

- (1) The appellant, Anthony DiOrio, filed this appeal from the Superior Court's denial of his petition for a writ of habeas corpus. We find no merit to DiOrio's appeal. Accordingly, we affirm the Superior Court's judgment.
- (2) The record reflects that DiOrio has been continuously incarcerated since December 9, 2008 for multiple criminal convictions charged under six different indictments. His current release date is September 24, 2012. In May 2012, DiOrio filed a petition for a writ of

habeas corpus in the Superior Court. The Superior Court denied that petition. This appeal followed.

- (3) In his opening brief on appeal, DiOrio contends that the Superior Court erred in dismissing his petition. DiOrio contends that, in April 2012, the Court of Common Pleas had granted his sentence modification motion and vacated two of his Level V sentences, thus entitling DiOrio to immediate release.
- (4) The Superior Court found that the Court of Common Pleas had only discharged DiOrio from serving any further probation with respect to his sentences but had not vacated the Level V incarceration time. Thus, the Superior Court concluded that DiOrio was being held pursuant to a valid commitment and that his petition for a writ of habeas corpus should be dismissed.
- (5) After careful consideration of the parties' respective positions, we find no error in the Superior Court's conclusion that the Court of Common Pleas had not vacated two of DiOrio's sentences but had merely discharged him as unimproved from any further probation with respect to those sentences. In Delaware, the writ of habeas corpus is very limited and only provides relief to obtain judicial review of the jurisdiction of the court

ordering the prisoner's commitment.¹ In this case, DiOrio's commitment is valid on its face, and he is being held pursuant to that valid commitment.² Thus, there was no basis for a writ of habeas corpus. Accordingly, the judgment of the Superior Court should be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger Justice

¹ *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997). ² 10 Del. C. § 6902(1)